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**VIRGINIA TOBACCO INDEMNIFICATION AND COMMUNITY  
REVITALIZATION COMMISSION**

701 East Franklin Street, Suite 501  
Richmond, Virginia 23219

Executive Committee Meeting  
Wednesday, April 28, 2010  
5:00 p.m.

Hotel Roanoke  
Roanoke, Virginia

1    **APPEARANCES**

2

3    The Honorable Terry G. Kilgore, Chairman

4    The Honorable Frank M. Ruff, Vice Chairman

5    The Honorable Kathy J. Byron

6    The Honorable James S. Cheng

7            Secretary of Commerce & Trade

8    The Honorable Charles R. Hawkins, Chairman, Emeritus

9    The Joseph P. Johnson, Jr.

10   The Honorable Daniel W. Marshall, III

11   Mr. Buddy Mayhew

12   The Honorable Philip P. Puckett

13   The Honorable Edward Owens

14   Mr. James C. Thompson

15   The Honorable William C. Wampler, Jr.

16

17   **COMMISSION STAFF**

18   Mr. Neal Noyes, Executive Director

19   Mr. Ned Stephenson, Deputy Executive Director

20   Mr. Timothy J. Pfohl, Grants Program Administration Manager

21   Ms. Sarah Capps, Grants Program Administration Manager

22   Ms. Stephanie Kim, Director of Finance

23

24   **COUNSEL FOR THE COMMISSION**

25   Mr. Francis N. Ferguson, Esquire, Counsel for the Commission

1 April 28, 2010

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4 DELEGATE KILGORE: I'm going to call the  
5 Executive Committee meeting to order and I'll ask Neal to call  
6 the roll.

7 MR. NOYES: Delegate Byron?

8 DELEGATE BYRON: Here.

9 MR. NOYES: Secretary Cheng?

10 SECRETARY CHENG: Here.

11 MR. NOYES: Mr. Day?

12 MR. DAY: (No response).

13 MR. NOYES: Senator Hawkins?

14 SENATOR HAWKINS: Here.

15 MR. DAY: Delegate Johnson?

16 DELEGATE JOHNSON: Here.

17 MR. NOYES: Delegate Kilgore?

18 DELEGATE KILGORE: Here.

19 MR. NOYES: Delegate Marshall?

20 DELEGATE MARSHALL: Here.

21 MR. NOYES: Mr. Mayhew?

22 MR. MAYHEW: Here.

23 MR. NOYES: Senator Puckett?

24 SENATOR PUCKETT: Here.

25 MR. NOYES: Mr. Owens?

1 MR. OWENS: Here.

2 MR. NOYES: Senator Ruff?

3 SENATOR RUFF: Here.

4 MR. NOYES: Mr. Thompson?

5 MR. THOMPSON: Here.

6 MR. NOYES: Senator Wampler?

7 SENATOR WAMPLER: Here.

8 MR. NOYES: You have a quorum Mr.

9 Chairman.

10 DELEGATE KILGORE: Thank you Neal. Do I  
11 have a motion that we approve the minutes of April 15<sup>th</sup>?

12 DELEGATE JOHNSON: So moved.

13 MR. THOMPSON: Second.

14 DELEGATE KILGORE: I have a motion and a  
15 second. All those in favor say aye (ayes). All right, the  
16 minutes are approved. I have an item that wasn't on the  
17 agenda. Let's go ahead and hear this first before we get into  
18 the budget because that might take a little more time. (VCOM)

19 MS. RAWLINS: You have some literature that's  
20 being passed out which will help explain what I want to talk  
21 about. What we're proposing to do is create two centers in the  
22 state within the Tobacco Region for medical education and  
23 research. I think as you know, and you'll see in some of the  
24 handouts, all of our medical training sites for the Virginia  
25 College of Osteopathic Medicine are in Southside and

1 Southwest Virginia and the majority of them occurring in the  
2 tobacco region. These were established for the purpose of  
3 meeting the needs of the medical underserved areas of the  
4 state and we've affiliated a partnership with hospitals. We're  
5 graduating our fourth class this year and for the last two years  
6 we're known in the country as the 10<sup>th</sup> and 11<sup>th</sup> in producing  
7 the largest number of primary care of students interested in  
8 primary care residencies. We stay true to the mission to  
9 produce primary care physicians and try to produce  
10 physicians for the really underserved areas. One of the things  
11 that's been the biggest challenge for us is that the number of  
12 medical students graduating in the state exceed the number of  
13 medical residency first year positions that exist. For us to be  
14 successful, we have to retain the students here for residency  
15 as well. According to some of the studies that have been done,  
16 physicians tend to locate within approximately one hour from  
17 where they trained as a residency. That becomes really  
18 important so that we can have retention. We started in the  
19 last two years to develop residencies in Southwest and  
20 Southside Virginia. The first two residencies we did were at  
21 Bluefield, Montgomery County in Blacksburg and in Danville.  
22 The one in Danville will start in the summer. We have some  
23 proposed sites that we hope to open in the next year in  
24 Abingdon as well as in Halifax, South Boston. In order to do  
25 this and make these residencies attractive for the students, we

1 need to create an environment in which there are the same  
2 opportunities and the same advantages as an urban residency  
3 training center. That's difficult to do in any one hospital so  
4 what we're proposing is a type of arrangement where we create  
5 centers for medical education research and they support two  
6 or three hospitals that are arranging for hospitals to provide  
7 residencies.

8                   The first one would be in Danville. We're  
9 proposing to put that one in the Danville Center for Advanced  
10 Learning and Technology and to occupy part of that structure  
11 for some time. We would have to renovate it and create  
12 certain things for education and one would be a simulated  
13 medicine center. Most of you know in medical education we're  
14 moving towards the use of simulated models for training and  
15 having the same type of technology when you're going into a  
16 residency in Danville or South Boston as they would if they  
17 were going to Richmond. I think we're going to have to have  
18 this type of technology in order to be successful in the future  
19 and in the residencies we're creating. We also need an area for  
20 bio-mechanical research and for simulated medicine research  
21 and hopefully for future medical research.

22                   We're not asking for a great deal of money for  
23 that proposal. Actually \$2,652,000. We'll be matching that as  
24 well as Danville. We got money from Danville, the Danville  
25 Foundation and the Danville Community Center supports this

1 residency program. We got this spelled out in our handout.  
2 We feel this will serve as to building the residencies in  
3 Southside, South Boston, Danville and in Martinsville. There  
4 are models that has shown this type of program are very  
5 successful and the one we're using is Geisinger from  
6 Pennsylvania. It's not a totally rural area and that has become  
7 the regional referral center. We feel Danville has the potential  
8 to recruit quality academic physicians for faculty and there's  
9 an opportunity to do research and we can collectively fund the  
10 academic salaries for teaching. This can promote a great  
11 opportunity for recruitment for that type of faculty.

12                   We're proposing to train 120 residents and 75  
13 medical students and that will have significant economic  
14 impact as well in this area. We got some of those figures in  
15 the report there for you. The first residency is supposed to  
16 start this summer. The project is ready as soon as the  
17 funding is available.

18                   The second center we propose is in Southwest  
19 Virginia and it will be in Abingdon. We can provide medical  
20 training and we want to advance that now to residencies and  
21 we're working with state hospitals to create family residency  
22 enrollment, internal medicine and emergency medical  
23 residencies in Abingdon and we will have family medicine in  
24 Saltville and additional programs in Marian. We also are  
25 looking at orthopedic and internal medicine and fellowships

1 that follow internal medicine. I think this is an excellent site  
2 and now that they have built a structure and the original  
3 referral center in Abingdon for the Lebanon area and this sets  
4 up an appropriate structure the same way we would operate  
5 the center for medical education research. We do have a  
6 verbal commitment and there's a letter that I forwarded and  
7 that came from the Board meeting at Johnson Memorial that  
8 occurred last Wednesday. They are very positive about it and  
9 getting us the Johnson Memorial Hospital to create the center  
10 in. I think it would be excellent use of the hospital, I mean an  
11 abandoned building. That will take in 105 medical residents,  
12 75 students for that facility. We're partnering with some  
13 programs with East Tennessee State and looking at working  
14 on primary care residencies where we can obtain dual  
15 approval for our program and that would be much more  
16 attractive to applicants. We plan to do joint research as well  
17 in that facility. We're going to occupy two floors of the center  
18 for medical education research and that way we can create  
19 other space for the creation of a dental school and we haven't  
20 been through that accreditation process and that's not  
21 something we can guarantee anyone yet, only that we're  
22 possibly moving in that direction in the future and have the  
23 ability to use the hospital will significantly help us. You hear  
24 a lot about lack of medical care in Southside and Southwest.  
25 The purpose of all this is to help establish the ground work for



1 We do appreciate you all coming today and we appreciate the  
2 handouts. The members can email Tim if they got any  
3 questions about this and there's contact information here for  
4 you all. So thank you all. All right, let's go to the budget.

5 MS. KIM: In front of you is a budget proposal  
6 for 2011. As you consider the 2011 budget, I want to give you  
7 an update on the indemnification and where we stand on that.  
8 We're compensating for losses through the 2002 crop year  
9 which was the federal buyout year. Considering all the other  
10 sources made available, the Tobacco Commission has already  
11 made available nearly \$268 million and another \$20 million  
12 should be going out in the next month. That leaves the  
13 remaining obligation of \$28,500,000 left for the total obligation  
14 for indemnification.

15 DELEGATE KILGORE: What's the total  
16 remaining obligation?

17 MS. KIM: \$20.5 million.

18 DELEGATE KILGORE: \$20.5 million.

19 MS. KIM: That would be paid out in that  
20 budget for FY11 and that would complete it the way it was  
21 originally designed.

22 DELEGATE KILGORE: We paid out \$479  
23 million for farm payments?

24 MS. KIM: That's the total amount that we owe.  
25 We considered all of the other sources as well. We paid out

1 almost \$268 million.

2 DELEGATE KILGORE: Sometimes I think we  
3 get lost in a lot of our numbers that a lot of folks don't realize  
4 we spent that amount of money reimbursing farmers for what  
5 they lost and sometimes I don't think I do a good enough job  
6 getting that word out to farm families. \$267 million in  
7 Southside and Southwest Virginia is a lot of money compared  
8 to what other states did with their dollars related to farm  
9 communities. Charlie, thank you for your leadership on that  
10 in getting that worked out.

11 SENATOR WAMPLER: Mr. Chairman, I'd like  
12 to ask a question of staff. Should we wish to continue  
13 payments for two years or three years, the impact would be we  
14 would have additional dollars for other projects.

15 MR. NOYES: That's correct Senator.

16 SENATOR WAMPLER: Mr. Chairman, has  
17 staff prepared options for us on what that would be for  
18 payments through 2012 and 2013 would be for the budget?

19 MS. KIM: We have a spreadsheet that we can  
20 make the numbers whatever you'd like. There are annual  
21 administrative costs of \$331,500 that we do pay to Troutman  
22 for administrative payments whether the payment is \$5  
23 million or a \$100 million, the cost is the same for  
24 administration.

25 SENATOR WAMPLER: I don't know when you

1 want us to start making recommendations.

2 DELEGATE KILGORE: I would ask that we  
3 look at the budget and go down the line items on the budget  
4 and then when we get to that, make your recommendation,  
5 that's going to change or we could, if you want to make the  
6 recommendation now.

7 MS. KIM: We'll get there. Just to give you  
8 historically for purposes of invasion what we've done since the  
9 '05 securitization and then we securitized the remaining in  
10 '07. Our endowment balance now currently is \$536 million.  
11 We have pulled down 47 percent of the endowment to date,  
12 that is through FY10. To give you an update on where we are  
13 with the endowment balances, and these are amounts that  
14 have been transferred out of the endowment but have not been  
15 necessarily dispersed. The endowment balance as of right now  
16 and you see the restricted and unrestricted and the remaining  
17 obligations we have and we're proposing a 15 percent corpus  
18 invasion for FY11 which would bring the restricted balance  
19 down to \$106 million and the unrestricted to \$350 million.  
20 When you transfer them out of the endowment and put them  
21 in the fund. Currently our cash balance in the fund is \$258.8  
22 million. We have a lot of, the reimbursement basis with the  
23 grants and we haven't paid out all those funds yet. We have  
24 approximately \$204 million in unpaid commitments. These  
25 are grants we have made that have not yet been dispersed.

1 We expect the FY10 endowment transfers to occur in the next  
2 couple of months. That will leave an available budget balance  
3 of \$149 million. The FY2011 proposed budget on the green  
4 sheet is for \$106.6 million dollars, 80 for economic  
5 revitalization, \$20 million for indemnification, \$3 million for  
6 administration. If you'll notice on the margin for  
7 administration, the administration budget this year, new items  
8 some of which have been impacted and some have not. The  
9 administrative budget includes \$335,000 for Troutman for the  
10 indemnification processing which we have every year and it  
11 also includes \$500,000 for the attorney general's office  
12 litigation costs which you approved at the last meeting. It's a  
13 total of a million and \$500,000 will be in the next fiscal year.  
14 It includes \$200,000 to fund the Deputy Secretary of  
15 Commerce and Trade for rural economic development and up  
16 to \$200,000 for a mining study that was approved at the last  
17 Executive Committee meeting last week. In part of this  
18 budget, you all also need to approve the expenditure of  
19 \$250,000 to fund the Deputy Secretary of Commerce and  
20 Trade; \$50,000 is for the current fiscal year and \$200,000 for  
21 the next fiscal year. This includes the 15 percent corpus  
22 invasion which will be \$80.4 million and it includes \$25.8  
23 million endowment interest earned.

24                                   If you'd like to look at the spreadsheet, if you  
25 want to see any changes in scenarios, you can do that.

1 DELEGATE KILGORE: Let's go down to  
2 administration. Any changes we need to make or if anyone  
3 wants to make any changes on the administration; salary,  
4 benefit and per diems it's about the same.

5 MR. NOYES: For staff.

6 MS. KIM: And for the Commission members at  
7 meetings paid per diems per meeting.

8 DELEGATE KILGORE: I'm hearing no one  
9 saying anything about administration.

10 MR. NOYES: Do we need the language of the  
11 budget amendments.

12 MS. KIM: You need to approve the \$250,000  
13 to fund the Deputy Secretary of Commerce and Trade and  
14 \$50,000 in the current year.

15 DELEGATE KILGORE: This Deputy Secretary  
16 of Commerce and Trade that was something that is being done  
17 at the suggestion of the Governor.

18 SENATOR HAWKINS: I so move.

19 MR. OWENS: Second.

20 DELEGATE KILGORE: A motion has been  
21 made and seconded, any discussion?

22 MR. NOYES: Mary Carter, would you stand up  
23 and be recognized?

24 DELEGATE KILGORE: All in favor of that say  
25 aye (Ayes). Opposed (No response).

1 MS. KIM: The current budget amendment is to  
2 transfer \$50,000 from the unobligated funds to administration  
3 to fund the last quarter.

4 MR. OWENS: So moved.

5 SENATOR HAWKINS: Second.

6 DELEGATE KILGORE: All those in favor say  
7 aye (Ayes). Opposed. (No response). Moving on down.

8 MR. NOYES: We're actually looking for new  
9 space. We don't have an answer for you right now.

10 DELEGATE KILGORE: Senator Wampler, here  
11 is where you were talking about, indemnification and this is  
12 what we have paid to the farmers. Senator Wampler had  
13 suggested that we break it up into two years, 2011 and 2012.  
14 The total indemnification this year would be what?

15 SENATOR RUFF: You're saying that instead of  
16 paying in two years, pay it in three years?

17 DELEGATE KILGORE: He's saying instead of  
18 paying one year, pay it in two years, extend it one more year,  
19 that the rate –

20 MS. KIM: The rate will be cut in half.

21 DELEGATE KILGORE: It will be cut in half  
22 and you may hear something on that.

23 DELEGATE MARSHALL: Under  
24 administration, you still have to pay Troutman Sanders three  
25 hundred and some thousand.

1 MS. KIM: Yes, you're going to have it the  
2 following year as well if we do another year.

3 DELEGATE MARSHALL: But if you don't do  
4 the extra year you'll save \$300,000.

5 MR. OWENS: How much are we paying them  
6 now, can you pay that out now?

7 MS. KIM: Yes, \$335,000.

8 MR. NOYES: It's been about level for the last  
9 three or four.

10 MR. OWENS: Will we get half as much this  
11 year?

12 MR. MAYHEW: It's supposed to run out this  
13 year and one more year and this year is already in the  
14 pipeline. Then that leaves one year which will be next June.  
15 What he's saying is take next June and split half of it with the  
16 following June. In other words, you're going to stretch the last  
17 year into two years.

18 SENATOR HAWKINS: Mr. Chairman, the  
19 question is raised about the fee that's paid but the interest  
20 we're collecting on the money in our account is pretty much  
21 offsets the fees that we're paying, is that correct?

22 MR. NOYES: Unless we spend it.

23 SENATOR HAWKINS: So it's really a wash.

24 MR. NOYES: Stephanie just did the  
25 calculations. The \$10 million into another line item which you

1 may or may not want to keep and if those funds are, we don't  
2 have to spend it. We're earning interest on everything that is  
3 not spent and we can invade that 15 percent but that doesn't  
4 mean we're going to spend it and it will earn if it's not spent.

5 DELEGATE KILGORE: Senator Wampler, do  
6 you have anything you want to add on that? I think the  
7 guidance is sufficient.

8 SENATOR RUFF: The figures you've got  
9 penciled in for the budget, are they the same as they were for  
10 this year?

11 DELEGATE KILGORE: I don't believe so.

12 SENATOR RUFF: We know that tuition has  
13 gone up at most of the schools so how much have you  
14 adjusted education?

15 MS. KIM: It went from 8 ½ million to 10  
16 million on this budget.

17 SENATOR RUFF: What about Southwest and  
18 Southside Economic Development?

19 MS. KIM: It's difficult to do side by side  
20 comparison because it was a large one time \$25 million grant  
21 to Southwest Economic Development for King College. Last  
22 year Southside Economic Development was \$16 million and  
23 Southwest including the \$25 million was \$33 ½ million.

24 MR. NOYES: The basic budget from which I  
25 worked with Stephanie in putting this together is 15 for

1 Southside and 7 ½ for Southwest. That one time large  
2 expense last year, went through that committee, it could have  
3 gone through any number of different committees and it didn't  
4 necessarily have to be Southside Economic Development and  
5 it could have gone through special projects or through the  
6 reserve for all that matters. The reason you see 17, 5 and 10  
7 is that the two economic development committees now have  
8 responsibility for what used to be our technology program  
9 where you had separate committees. After consulting with  
10 representatives from our traditional grantees and with the  
11 leadership here, Southside and Southwest, I have added 2.5  
12 which is their estimate of what they would need to accomplish  
13 particular objections and it would happen in those two  
14 committees instead of a separate technology committee.

15 DELEGATE MARSHALL: I'd ask Senator Ruff  
16 a question. Through my Richmond office I know that as far as  
17 requests for education, do you have an idea of how many we  
18 did and if we funded them all?

19 SENATOR RUFF: Dr. Folkes and I have made  
20 contact and we know we didn't fund them all and we went  
21 back –

22 MS. KIM: We did offer additional awards to  
23 those that were eligible. I believe now that amount is  
24 \$300,000 more than we had anticipated.

25 SENATOR RUFF: I would say that some

1 people that would get that first rejection notice and dropped  
2 out of the plan but I think that's an arbitrary low number.

3 MR. NOYES: It probably is for exactly that  
4 reason.

5 DELEGATE MARSHALL: If the people that  
6 qualified had enough money, how much extra would we have  
7 needed to fund those people?

8 MR. NOYES: We can't give you a reliable  
9 answer.

10 MS. KIM: The only one we know about is the  
11 \$300,000.

12 MR. MAYHEW: Going back to the question at  
13 hand, in the past years has there ever been a surplus?

14 MS. KIM: Yes.

15 MR. NOYES: Last year was the first year ever  
16 that it was in Southside only where demand exceeded the  
17 available resources and then we went back in the committee  
18 and we accommodated those people who came back into the  
19 system. We can't give you a number with any kind of certainty  
20 that says this is absolutely how much money we would need  
21 for this level of scholarship and it will accommodate this  
22 number of students. There's a lot of talk that it may have to  
23 do with the economy, people going back to school that are not  
24 finding employment opportunities. In the Committee I expect  
25 to recommend an inflation adjustment based on the tuition

1 increases and increase my recommendation on the education  
2 budget from 8 ½ to 10 million to accommodate the  
3 Committee's decision on that matter. There's a million and a  
4 half more than there was last year.

5           SENATOR RUFF: I would also point out that  
6 there's a couple of things in that equation. If we put  
7 somebody on the ground that was going out to the schools and  
8 we had some counties that were not participating at all or on a  
9 very limited basis so we had more people coming into the  
10 stream. Can't give you the numbers because once somebody  
11 applies for the money and if they later decide they're not going  
12 to school, they get a scholarship and they don't need it, it can  
13 never be exactly correct on that. If we're at 8 ½ and tuition  
14 has gone up 10 percent, I'm not sure a million and a half is  
15 going to cover everything we need.

16           SENATOR WAMPLER: I would say to the  
17 Executive Committee that's one reason why we're trying to  
18 reallocate the dollars. If you take this as a suggestion  
19 beginning on line 27 down through line 32 of education, take  
20 those four line items and roughly reallocate \$10.2 million you  
21 can fill it in however you want to, \$3 million, \$3 million, \$3  
22 million, one but that was the intent.

23           MR. NOYES: Stephanie if you know, you  
24 didn't have an issue in Southwest with demand exceeding  
25 supply. In Southside Virginia we did. What was the amount

1 of money that was available for the loan forgiveness program  
2 last year, was it \$3.8?

3 DR. FOLKES: You mean the amount of  
4 scholarships went back and awarded.

5 MR. NOYES: The total award in scholarships  
6 and the loan forgiveness?

7 DR. FOLKES: \$1.25 Southwest and 35 in  
8 Southside.

9 MS. KIM: \$3 million 2 and in Southside an  
10 additional 350 that came back –

11 MR. NOYES: So roughly 3.5. If we run that at  
12 110 percent, we're adding 350,000 to it. That would be 3.85.  
13 So that 350,000 adding the million and a half would cover 385  
14 and the committee can adjust that.

15 DR. FOLKES: We opened up the scholarship  
16 applications the first of April after 25 days, all the Southside  
17 money had been claimed. After 25 days we had more  
18 applications and one of the reasons I think for that is, as you  
19 know the criteria for Southside changed rather dramatically  
20 since we started this. Now pretty much anybody in Southside  
21 Virginia that's going to college can apply for money as long as  
22 they agree to repay the money if they don't come back to the  
23 region. In essence, anyone that wants to go to college in  
24 Southside that knows about this program now and with the  
25 marketing program our applications are up. In Southwest, it's

1 a different set of criteria so that's why the number of  
2 applicants from year to year is about the same.

3 MR. NOYES: When is the cutoff?

4 DR. FOLKES: The cutoff is when the money  
5 runs out. We leave it open until all the money or until we've  
6 filled all the applications. But in Southside in 25 days, the  
7 number of applicants we've received exceeded the amount of  
8 money we had.

9 DELEGATE MARSHALL: How much additional  
10 money do we need?

11 DR. FOLKES: We had to stop –

12 DELEGATE MARSHALL: So you closed the  
13 application process?

14 DR. FOLKES: Yes, we'd already matched the  
15 amount of money we had.

16 DELEGATE KILGORE: Senator Wampler, do  
17 you have a motion?

18 SENATOR WAMPLER: I'm going to try to do  
19 that Mr. Chairman. I would recommend and make the motion  
20 that the Education Committee add \$4 million to the budget,  
21 agribusiness add an additional \$1.2 million, special projects  
22 \$2 million and TROF \$3 million and I stand to be corrected by  
23 Stephanie.

24 MS. KIM: That's assuming a reduction in the  
25 indemnification, you're adding four to education and 1.2 to

1 agribusiness and \$2 million to special projects, \$3 million for  
2 TROF.

3 SENATOR WAMPLER: That's \$4 million for  
4 education, \$1.2 for agribusiness, \$2 million to special projects,  
5 and \$3 million for TROF.

6 DELEGATE JOHNSON: I'll second that  
7 motion.

8 MR. FERGUSON: Mr. Chairman, this is  
9 assuming that these funds come from or half from  
10 indemnification paying the final payment one more year.

11 DELEGATE KILGORE: Yes.

12 SENATOR RUFF: Now is the time for  
13 discussion?

14 DELEGATE KILGORE: Yes.

15 SENATOR RUFF: Can you go back in the  
16 TROF money and tell us how much we spent last year?

17 MS. KIM: There was a budget last year of \$5  
18 million and the obligations, of course, come and go constantly.  
19 The remaining balance right now is \$3.26 million. Special  
20 projects last year budget was \$6.5 million and agribusiness  
21 was \$4 million.

22 MR. NOYES: That's with the budget  
23 amendment. Transferring unused indemnification payments  
24 to agribusiness, that figure was not set.

25 SENATOR RUFF: When you put numbers out

1 there, I'd be more comfortable putting money in reserve and as  
2 we need it figure out where it goes.

3 DELEGATE KILGORE: That's fine with me too.

4 DELEGATE MARSHALL: The only difference is  
5 maybe education. We already funded the education so you  
6 can pull that out of the block.

7 SENATOR RUFF: We don't know what the  
8 magic number is. If we went up a little more and put more in  
9 reserve then I think we could figure out where we need to be.

10 SENATOR WAMPLER: Mr. Chairman, I would  
11 refresh my motion.

12 DELEGATE KILGORE: How much in  
13 education, 11 or 12?

14 MR. STEPHENSON: Mr. Chairman, I would  
15 like to observe, it's possible to reduce the indemnification from  
16 \$20 million to \$10 without having to put the rest of that  
17 money back onto the budget. You do not have to budget it. I  
18 also noticed that the reserve on this sheet as we practice, it is  
19 exposed to applicants that appear before the reserve panel can  
20 be an approved expense between meetings. That's why I'm  
21 suggesting if you reduce the indemnification by 10, it's not  
22 necessary to put that 10 anywhere if you don't want to. You  
23 can do it later, with the exception of education.

24 DELEGATE KILGORE: All right. So you  
25 wouldn't show it on reserve.

1 MS. KIM: If you put any additional funds in  
2 reserve, take the \$14 million and move it out of the budget.

3 DELEGATE MARSHALL: I'd say take it and  
4 move it out of the budget, you can do that.

5 DELEGATE KILGORE: Whatever the majority  
6 of the members here want to do that's fine with me.

7 SENATOR HAWKINS: In the end it's all the  
8 same.

9 SENATOR RUFF: Mr. Chairman, I would move  
10 we increase education to \$12 million and reduce the reserve to  
11 zero and that would leave the \$14 million off the book in our  
12 account but not showing on this sheet.

13 DELEGATE KILGORE: We have a motion, any  
14 discussion?

15 MR. OWENS: The reserve fund is this the  
16 same as –

17 MR. NOYES: The reserve fund that is available  
18 for applicants.

19 DELEGATE KILGORE: We can transfer money  
20 back in until the next best thing comes along.

21 MR. NOYES: You can do it quarterly and if  
22 something comes up that needs a match in between, that's  
23 why we set it up so that there's a panel that can act. I just  
24 handed Delegate Byron an alleged report that I got and I  
25 believe it shows that the actual expenditure from reserve to

1 date has been about \$13.1 million and the amount leveraged  
2 has been 38 ½. That does not include an announcement  
3 yesterday that Buggs Island Telephone Co-op received \$19  
4 million from the U.S. Department of Commerce and I think our  
5 commitment on that was \$3.8 or something like that. We're  
6 getting about a 4 to 1 leverage which is what this committee  
7 had hoped for when it established the program.

8 DELEGATE KILGORE: Anyone else have any  
9 comments or change or suggestion as far as a change to the  
10 budget? All in favor of Senator Ruff's motion – do we need to  
11 put the money in reserve?

12 MR. NOYES: Only if you want the program to  
13 continue.

14 DELEGATE KILGORE: Why don't we show in  
15 reserve that the \$6 million that was on the books or it was on  
16 there earlier today.

17 SENATOR RUFF: I'll change my motion then.  
18 Maybe all the other people in the room will forget the \$8  
19 million is out there.

20 DELEGATE KILGORE: All right.

21 MS. KIM: That will reduce the indemnification  
22 in half.

23 DELEGATE KILGORE: Yes. All those in favor  
24 of Senator Ruff's motion and seconded by Delegate Marshall.  
25 (Ayes). Opposed. (No response). All right, that takes us

1 through the budget.

2 MR. NOYES: Let's get a vote on the budget as  
3 it is displayed?

4 SENATOR HAWKINS: So moved that the  
5 budget be adopted.

6 DELEGATE JOHNSON: Second.

7 DELEGATE KILGORE: I have a motion and a  
8 second. All those in favor say aye (Ayes). Opposed. (No  
9 response).

10 MS. KIM: On page 53 of your book is the  
11 resolution for the 15 percent corpus invasion for FY2011.

12 SENATOR HAWKINS: Mr. Chairman, I think  
13 it's awfully important for us to have funds like this available  
14 and be flexible when we get to a project like a mega park. It's  
15 been moved and seconded and I call for the question.

16 DELEGATE KILGORE: Anymore discussion?  
17 It's been moved and seconded and the question is called for.  
18 Anymore discussion? This is the corpus invasion and Senator  
19 Ruff will be presenting that tomorrow and get familiar with  
20 that. All those in favor of the motion say aye. (Ayes).  
21 Opposed. (No response).

22 MR. STEPHENSON: Just a couple of  
23 housekeeping matters. At your last meeting two weeks ago by  
24 consensus and by a vote of the TROF panel, Henry County  
25 was awarded \$1.5 million for the speedway transaction. A

1 portion of that \$278,000 was in Henry County's Southside  
2 allocation and that committee did not vote on that. If the  
3 Chairman consents to that, Henry County wants it. I'm  
4 inviting a motion to transfer \$278,458 from the Southside  
5 Committee to the TROF account and I invite that motion.

6 MR. OWENS: So moved.

7 DELEGATE KILGORE: We have a motion and  
8 a second. Anymore discussion? All those in favor say aye.  
9 (Ayes). Opposed. (No response).

10 MR. STEPHENSON: One last item Mr.  
11 Chairman, in the recent Appropriations Act, there was  
12 approved a \$5 million mega fund expenditure from non-  
13 general fund sources. It's been suggested that the  
14 Commission may want to supply those non-general funds  
15 sources and if so, I'm going to suggest that this body consider  
16 making that \$5 million grant to the Virginia Economic  
17 Development Partnership who is the designated supervisor of  
18 that fund. I put it out there just to invite your comments to  
19 see if you want to take that action.

20 DELEGATE KILGORE: Ned, I would say that  
21 we have in our budget \$25 million for the mega park.

22 MR. STEPHENSON: Yes, to my knowledge  
23 there is not yet any committee formed to preside over that  
24 budget line item so it would fall somewhat to the Executive  
25 Committee.

1 MR. NOYES: Ned, if I could speak to that.  
2 Both are regional projects and it seems to me the most  
3 appropriate committee to consider both policy and  
4 applications would be the Special Projects Committee. I have  
5 not discussed it with Senator Wampler who chairs that  
6 committee but that way we would at least get a consistent  
7 approach to mega site development and the use of these very  
8 substantial resources.

9 DELEGATE KILGORE: I think Senator  
10 Wampler will take on that charge. I think the appropriators or  
11 I think it was their goal that we spend \$5 million and we're  
12 going to develop some mega parks and I think we'll meet that  
13 goal.

14 SENATOR WAMPLER: Mr. Chairman, if Ned  
15 would refine his motion, I'll be glad to make it according to his  
16 or whatever he wants to allocate it from.

17 MR. NOYES: Mr. Chairman, we need to make  
18 it clear that we're going to disperse from invoices and not  
19 simply transfer \$5 million tomorrow.

20 MR. STEPHENSON: That's right, the  
21 anticipated process is that VEP would oversee the use of this  
22 money and submit invoices to the Commission to be  
23 reimbursed. We just wanted to make sure that we do that out  
24 of the right budget line item and under the authority of that  
25 committee. It's a little cloudy to me at the moment whether it

1 should come out of special projects and if so, move the money  
2 over to that committee so they can preside over it so it would  
3 have the effect of the Special Project Committee presiding over  
4 the mega site.

5 DELEGATE KILGORE: I'll charge Special  
6 Projects with the mega parks.

7 MR. NOYES: With developing policy when  
8 reviewing applications for funding the mega park. I think the  
9 way it is, this \$5 million needs to be handled in house  
10 administratively otherwise Senator Wampler is going to be  
11 meeting quarterly to discuss some portion of the \$5 million  
12 figure.

13 MR. STEPHENSON: I think I understand and I  
14 think I'm seeking authority from the Commission for staff to  
15 make a \$5 million disbursement.

16 SENATOR WAMPLER: That's correct, I'd make  
17 that motion.

18 SENATOR PUCKETT: I'll second it.

19 SENATOR WAMPLER: I'll say to the Executive  
20 Committee and ultimately to the full Commission tomorrow  
21 this is a commitment that was made on the part of me, not all  
22 but me trying to generate good will during the budgeting  
23 process to both Mr. Secretary and his Excellency, the  
24 Governor that we are a full partner and hear efforts to promote  
25 economic development. When all else fails, read instructions,

1 the Appropriations Act, it's very clear that it expects \$5 million  
2 by non-general fund sources the first year of the biennium.  
3 Again, speaking to the motion, I think we have a fiduciary  
4 responsibility to make sure that we spend our dollars on  
5 intended purposes and that's why I think our Director has  
6 framed the discussion the way that they have. I think it's a  
7 good motion and we should do it and effectively drawn down in  
8 the first year.

9 DELEGATE KILGORE: Anyone else want any  
10 discussion? All those in favor say aye. (Ayes). Opposed. (No  
11 response).

12 MR. NOYES: Mr. Chairman and members of  
13 the Committee, for the Special Projects Committee there is  
14 discussion and it's recorded in the minutes that applications  
15 to that committee anticipate a 15 percent cost share of the  
16 total project cost. Fifteen percent or higher. For all other  
17 committees there is or there has been an expectation of a  
18 match amount but it has not been established in policy so it's  
19 all over the map. The staff requires guidance from the  
20 Commission on what to look for as we evaluate applications. I  
21 would exempt the scholarship monies from this but I would  
22 ask that you consider having a non-commission match with  
23 whatever figure you set. We have been operating on a 10  
24 percent figure but it has not been a matter decided by the full  
25 Commission that that is the expectation. We simply been

1 operating with the exception of special projects where it's 15  
2 percent or higher that has been established. What I'm saying  
3 is that you all set the percentage and you can set it at not less  
4 than 10 percent or 15 percent at cash or in kind as long as the  
5 in kind is associated with the project to which the application  
6 is being made rather than something entirely different or  
7 separate. There just needs to be a policy of the Commission.

8 DELEGATE JOHNSON: Are you saying that if  
9 we make a \$5 million grant then the recipient would have to  
10 put up that percentage?

11 MR. NOYES: A percentage of the total project  
12 cost. If the total project is \$5 million we'd be looking for a  
13 \$500,000 cash or in kind from the applicant and our award  
14 would be \$450 giving the total of \$500,000.

15 DELEGATE JOHNSON: Would there be  
16 exceptions?

17 MR. NOYES: The Committee can make  
18 exceptions at anytime it wants to. Right now there's no policy  
19 and there's no basis for staff to say this one meets your policy  
20 except in special projects where it's set at 15 percent.

21 DELEGATE JOHNSON: Us poor boys in  
22 Southwest Virginia may not be able to come up with 10  
23 percent. What criteria would you use or how do they have to  
24 come up with the percentage?

25 MR. NOYES: I would say have to meet the

1 required match and then the Committee could decide.

2 DELEGATE KILGORE: Maybe I could ask this  
3 question to clear it up. Would you say in your experience  
4 most of the grants we have awarded have some matching  
5 funds, are in kind included in the grant?

6 MR. NOYES: Yes, certainly they do but it's all  
7 over the map and there is no policy.

8 SENATOR HAWKINS: Mr. Chairman, I think  
9 with the Commission trying to put together projects that have  
10 some merit and having some sort of basis does make sense.  
11 Having a rule in place that we can understand what we're  
12 asking them to do and asking localities makes sense. Having  
13 the ability to have an escape valve that the Committee can  
14 look at each case if there's a hardship involved with it, the  
15 Committee can look at it. I think it certainly makes good  
16 policy for us to be able to have something that is uniform but  
17 we can look at it on a case by case basis. If there's a problem  
18 such as an area doesn't have any money to put up a match.  
19 Most localities can come up with land, sewer connections or  
20 something that have some sort of connection to these projects  
21 to be able to lend itself to work together and do what we're  
22 trying to build.

23 MR. NOYES: You are right Ned.

24 SENATOR HAWKINS: I would move that we set  
25 a 10 percent match. That's my recommendation.

1 MR. NOYES: Thank you. This is with the  
2 exception of the scholarship fund and there's no reason to do  
3 it there. You need a uniform policy for all programs.

4 DELEGATE KILGORE: Ten percent for all  
5 programs but realizing that the better the match, the better  
6 the staff is going to rate the project.

7 MR. NOYES: That's true, the more cash the  
8 better than the in kind stuff. This also will not apply to the  
9 reserve program or the R&D program. Those have clearly  
10 established dollar requirements but this would apply to the  
11 mega site.

12 DELEGATE KILGORE: Everybody's heard that  
13 so is there anymore discussion? All those in favor of the 10  
14 percent matching fund policy across the board say aye (Ayes).  
15 Opposed. (No response). The TROF policy.

16 MR. STEPHENSON: Mr. Chairman, I stand  
17 between you and happy hour so I'm going to burn through this  
18 very fast unless you slow me down. Members of the  
19 Commission, since the Commission started about 11 years  
20 ago, the TROF Program has evolved over time and I think for  
21 many of us, there's aspects of this TROF Program that have  
22 evolved that you may or may not know and I want to align all  
23 of us as to what we are doing and if you have a problem with  
24 that, you can speak up and I'll go very quickly. However, I  
25 know at the end of this there is one significant policy question

1 for the staff and we need your guidance. We'll hit that at the  
2 end. So the original program that we started out with, the  
3 amount of the grant award was equal to whatever they asked  
4 for and that was difficult to administer because people started  
5 to ask for large sums and there was really no way to quantify  
6 that. The counties were not made liable for these TROF  
7 transactions and we've changed that to the displeasure of a  
8 number of counties and that's the way it stands today and you  
9 may want to change that. In the original TROF transactions,  
10 companies would promise hundreds of jobs and there was no  
11 definition of what a job was like seasonal, part time, fulltime,  
12 FTD, turnover, salaried, wages, hourly and there was no  
13 definition so it was very difficult to know exactly what the  
14 promise was. Capital investment was not defined. Is it  
15 assessed value or appraised value, book value, cost, market  
16 value, what is the value that we're looking for. Consequently,  
17 the companies would present whatever number that they  
18 could find that was favorable to say that they met the  
19 obligation. The use of the TROF money was not defined  
20 clearly. The earliest contract said "site preparation". It was  
21 unclear to us exactly what the money could be used for.  
22 Because of these things, it's not verifiable and you can't tell if  
23 you're getting what you paid for or not. In many, many cases,  
24 they're not verified. In the last three or four years and I'm  
25 going to tell you what's going on with the current program.

1 The grant amount is now according to an econometric model  
2 and then subject to the Committee's approval. I'll tell you that  
3 99 percent of the time the Committee adheres to the  
4 econometric model. Companies may ask for a million dollars  
5 but if the model generates \$300,000, that's what gets offered  
6 and approved.

7 We have made the counties liable for these  
8 transactions which I will tell you have been immensely  
9 effective in getting these default TROF agreements cleared up  
10 because now the counties cannot shrug off these liabilities and  
11 they're in it with us and they have to make sure these work.  
12 You know, of course, many counties have been displeased with  
13 this and spoken to a number of you about wanting to change  
14 that. We have defined jobs precisely as being that which  
15 appears on the Virginia Unemployment Tax Return. It's  
16 indisputable and it's one page when we pull that out, the  
17 argument goes away because that's how many people got paid.  
18 We have defined capital investment to be that which appears  
19 on the tax roles. We get flooded with a lot of things about how  
20 much does it cost us and what the appraised value is and so  
21 forth but we take the position that capital investment is only  
22 valuable to our community if its sitting on the tax roles so  
23 that's the number that we use and this is written into the  
24 TROF contracts.

25 The use of funds in the current contract is

1 restricted. Basically it is restricted to two things involving  
2 training or improvement of public assets. This is the item that  
3 I need to draw your attention to as the use of the funds and  
4 we'll talk about that in a moment. I will tell you with certainty  
5 that under these contracts, the number of jobs actually  
6 produced and the investments created are 100 percent verified  
7 against VEC records and revenue records going forward. We  
8 have 100 percent verification to make sure that we get  
9 compliance.

10 Now, this is the piece I want to bring your  
11 attention to. The use of the money by the grantee which is the  
12 county or the beneficiary which is a company while the use is  
13 restricted in the document, it's not being verified, audited or  
14 looked at and that's been true since the inception of all of  
15 these TROF deals. I want to ask the committee for guidance  
16 as to whether or not you want to restrict the use of the money  
17 and if so, do you want it audited or verified and I have a  
18 recommendation for you if so.

19 DELEGATE KILGORE: Let's hear the  
20 recommendation first.

21 MR. STEPHENSON: The question is and  
22 please pay attention to this carefully. If a company delivers on  
23 the jobs and the investment that they promised, do you want  
24 to restrict the use of the money? I'm suggesting to the  
25 Committee no, you don't because you got what you paid for

1 and it's irrelevant how the money gets spent. This may give  
2 some Commissioner's heartburn and this is the point at which  
3 you need to fix this.

4 MR. FERGUSON: Well, we actually had a  
5 fairly lengthy discussion about this yesterday. There was not  
6 a 100 percent agreement on the policy side but my view legally  
7 is that because what we are essentially purchasing on this  
8 contract basis is the number of jobs and investment in the  
9 locality. If we can establish and verify and appropriate due  
10 diligence is made ahead of time to establish the amount of  
11 money being granted is appropriate for that promise or those  
12 promises, and they in fact fulfill those promises and we verify  
13 that, I think legally that is sufficient.

14 DELEGATE MARSHALL: Can you go back to  
15 that first slide. Under the current program Ned, under this  
16 opportunity fund, how close do we resemble any and all under  
17 that program?

18 MR. STEPHENSON: Delegate Marshall, there  
19 are significant differences. In the early days, we tried to mirror  
20 what the Governor's Opportunity Fund was doing as to  
21 amount and terms but there are two different approval bodies  
22 of authority. The Commission seemed reluctant to give over  
23 it's authority to VEDP and they wanted to run the GOF grants  
24 so we began a divergence and the Commission has done what  
25 it saw fit. The county liability issue and the Commission has

1 ruled on that several times. It used to be closer but it is  
2 significantly different.

3 SENATOR HAWKINS: Since our charge is to  
4 create opportunities for jobs in an area that we represent and  
5 the ability to have some flexibility within the program itself  
6 gives us that initiative to be able to meet the needs. If we put  
7 something down that is so restricted, we may find ourselves  
8 not accomplishing that which we've tried to do. We make  
9 decisions on the recommendation of staff so I think the  
10 direction we're headed now does give us some flexibility that is  
11 really needed.

12 DELEGATE KILGORE: Does the Governor  
13 Opportunity Fund, does that verify where the, as long as they  
14 create the jobs and investment, do they go back and verify  
15 that?

16 MR. STEPHENSON: Delegate Kilgore, I really  
17 shouldn't speak for the partnership or the GOF fund.

18 DELEGATE KILGORE: What about in your  
19 opinion?

20 MR. STEPHENSON: I will say that the  
21 partnership could not be any more accommodating to the  
22 Tobacco Commission in terms of helping us partner.

23 DELEGATE KILGORE: I was trying to mirror  
24 them because if they're doing something, I agree with our  
25 Chairman Emeritus that our job is to create jobs and create

1 investment in Southwest and Southside. If we do that, I think  
2 we're meeting our mission.

3 MR. STEPHENSON: The evolutions that I'm  
4 trying to present to you, we have moved significantly down this  
5 road making sure that you get what you paid for.

6 DELEGATE KILGORE: I want to commend you  
7 on doing that because you and Tim and the rest of the staff  
8 have really done a good job following up and making sure that  
9 we've addressed those concerns that you had on the previous  
10 slide and I want to thank you for that but we've got to make a  
11 decision. It's 6:20.

12 DELEGATE JOHNSON: I'd make a motion we  
13 adopt the staff's recommendations and I think it's good. So if I  
14 need a grant and before I get my money, I go ahead and  
15 complete it or complete what I'm supposed to do, does that  
16 mean I don't get it?

17 DELEGATE KILGORE: If you create the jobs  
18 and the investment, that's fine. We got a motion and we got a  
19 second, anymore discussion following Ned's recommendation?  
20 All in favor say aye. (Ayes). Opposed. (No response). Ned,  
21 you're still up.

22 MR. STEPHENSON: Mr. Chairman, in the  
23 normal course of business with these TROF transactions,  
24 there are from time to time companies that cannot perform as  
25 agreed. We've worked through most of those but always we

1 offer those parties an opportunity to speak to you and that  
2 they are not satisfied with the staff's administration.

3 DELEGATE KILGORE: I think you skipped  
4 public funds to private entities.

5 MR. STEPHENSON: We worked through quite  
6 a number of defaulted TROF agreements and we always offer  
7 the parties an opportunity to speak to this Committee if they  
8 are not satisfied with the staff's administration fees and there  
9 is one such company that has asked to appear before you  
10 tonight. I'm going to give you in one breath the history of what  
11 happened and then turn it over to the company representative.  
12 In September of '06 you made a \$100,000 TROF award to the  
13 Town of Saltville for the benefit of Virginia Cobia Farms and  
14 made certain job investment promises to you. Virginia Cobia  
15 Farms defaulted on that agreement. We sat at the table and  
16 worked out an extension which we can tell you all about and  
17 they have defaulted on that extension. They've asked the staff  
18 for additional accommodations and the staff has declined and  
19 has asked for a refund at which time we would then sit at the  
20 table and work out terms of the new transaction but only upon  
21 receipt of the refund. Virginia Cobia Farms was not pleased  
22 with this decision and has asked to speak to you tonight. I  
23 believe Mr. Bill Harris is here.

24 DELEGATE KILGORE: It is evening now.

25 MR. STEPHENSON: It is evening but Bill

1 Harris represents Virginia Cobia Farms and they want to tell  
2 you their story tonight.

3 DELEGATE KILGORE: If you can be brief and  
4 thank you for coming Mr. Harris.

5 MR. HARRIS: Thank you very much Mr.  
6 Chairman. I'm here and joined by Tracy Mitchell whose  
7 director of business development in our company as well as  
8 Jeff Campbell who is the Mayor of Saltville and the Town  
9 Manager. As part of the handout there are four pages to  
10 provide first in the front part a synopsis of what our company  
11 is and what it does. The second, on the bottom in yellow is  
12 the original TROF proposal and the agreement that we signed.  
13 The second page is actually what happened our last three  
14 years. The next page is our proposal as to how we can go  
15 forward. Finally there's a letter from a well known bank, a  
16 local bank for a \$2 million loan which we decided not to move  
17 forward with even though we were approved for it because of  
18 the circumstances.

19 We are requesting an extension and not a re-  
20 do essentially as Ned is talking about for the following reasons.  
21 Our company is Virginia Cobia Farms Joint Venture, Inc.  
22 between two companies. One of them is Blueridge  
23 Aquaculture based in Martinsville. That's a well known  
24 company in Virginia. For those not familiar with that, there is  
25 an email from the Chief of Staff at the Lieutenant Governor's

1 Office and he's very interested in job creation and knows this  
2 company very well. The other joint venture partner is a well  
3 known technology company. We have a unique process and  
4 grow fish that is pictured there which is Cobia and it's very  
5 highend fish that's used in restaurants and creates income  
6 and jobs for the region. We've won a number of awards that  
7 are listed there and I won't go into those details. We're well  
8 known and an internationally recognized company. When we  
9 came to Saltville, we found that Saltville in Southwest Virginia  
10 is a perfect place to grow our business and we established our  
11 business in a rented building that was rented from the Town  
12 of Saltville and entered into a public private partnership to  
13 develop the area. We have been renting space and we plan to  
14 purchase it. Essentially it was a lease to buy arrangement.  
15 The basic thing that has occurred and has been a problem is  
16 that we have pledged that for three years we would employ 60  
17 people and invest \$31 million in capital investments.

18 Why am I here before you today? The  
19 fundamental problem was we couldn't purchase the property  
20 from the Town of Saltville due to problems associated with the  
21 easements of right of ways and zoning issues and title  
22 transfers that the Town needs remedied. Many of the items  
23 that came up were not present at the time we committed to the  
24 TROF grant. I want to emphasize that we've had an extremely  
25 good relationship with the Town and have been very

1 supportive and very helpful but moved at a pace that we were  
2 unable to afford to complete this TROF agreement as planned.  
3 On the second page you see a series of stop signs and  
4 everywhere where you see yellow, is the plan we were going to  
5 move forward with and the stop sign is the reason we could  
6 not move forward with it and immediately underneath it is our  
7 performance.

8                   Instead of going through this in detail with you  
9 but in the first year we met our goal and we initiated the  
10 purchase of the building by getting the appropriate financing  
11 which was the \$2 million loan in equity financing to purchase  
12 the property. We then found out the actual right of way of the  
13 warehouse we were occupying was sold unbeknownst to us  
14 and the Town through a neighboring parcel. We're in a  
15 building that we don't have legal right of way to and there are  
16 a number of different zoning issues that have delayed us  
17 purchasing the property.

18                   In the fall of 2008, we employed 7 people and  
19 we had an offer to purchase the property. Even though we  
20 were occupying a rental building and even though we had no  
21 legal access to it, we invested \$550,000 and we actually  
22 deferred action on the loan because we couldn't purchase the  
23 property. Since that time, we've continued to produce small  
24 amounts of fish. We've employed now 11 full time workers.  
25 We've put a million dollars of capital investment into a rented

1 building that we don't own and we've spent \$4 million in  
2 working capital to stay in and to develop our business in  
3 Southwest Virginia. As you can see from the numbers, we're  
4 very committed to this and committed to Southwest Virginia  
5 as a location. It would be easier for us to pay the \$100,000  
6 and walk away and go somewhere else which is what we don't  
7 want to do. The Town of Saltville and we have worked through  
8 various aspects of this real estate transfer. We have a signed  
9 purchase and sale agreement and we have one outstanding  
10 issue remaining which is the zoning hearing that we don't see  
11 any problems with which occurs on May 11<sup>th</sup>. After that, we're  
12 poised to purchase the property and move forward with the  
13 original plan we talked about.

14 In the second page you can see the actual  
15 request that we have. We're still committed to creating 60 jobs  
16 and still committed to investing \$31.5 million. You see the  
17 average wages that we'll commit to and the terms under which  
18 we propose to go forward. We expect after what the Tobacco  
19 Commission has been through, you don't want to wait three  
20 years to find out whether we are performing adequately. So  
21 we have proposed that we be evaluated on an annual basis for  
22 our performance and have suggested annual performance  
23 goals and investment, capital investment as well as jobs. If we  
24 fail to perform in 12 months, you can pull the plug in one year  
25 and we'll pay back the \$100,000. We're very confident of our

1 own ability to perform. For the last three years we've been  
2 handcuffed in our ability to perform at all because we have not  
3 been able to purchase the property and make any kind of  
4 capital investments.

5 I would very much ask that we be granted an  
6 extension and want to be evaluated on an annual basis with  
7 the investment goals and the jobs you see before you. I'll be  
8 happy to answer any questions.

9 DELEGATE JOHNSON: How many dollars has  
10 the company invested as of now?

11 MR. HARRIS: We have invested at least \$5  
12 million total investment; \$4 million in working capital and \$1  
13 million in capital infrastructure in the Town.

14 DELEGATE JOHNSON: Has the Town of  
15 Saltville lived up to their part in the partnership agreement,  
16 has that been successful in your opinion?

17 MR. HARRIS: Yes.

18 DELEGATE JOHNSON: The only reason why  
19 you have not been able to complete the agreement with the  
20 Tobacco Commission is simply because the Town of Saltville  
21 has not been able to deliver you a general warranty deed?

22 MR. HARRIS: Yes.

23 DELEGATE JOHNSON: If you had that you  
24 could pay the loan back?

25 MR. HARRIS: Yes.

1 DELEGATE JOHNSON: But inspite of that,  
2 you have invested all this money because you want to  
3 continue in Saltville?

4 MR. HARRIS: Yes.

5 DELEGATE KILGORE: Are you leading the  
6 witness now?

7 DELEGATE JOHNSON: It looks to me that  
8 they would be entitled to have the extension. It hasn't been  
9 there fault and look at all the money that they've invested and  
10 have lived up to their part of the agreement and they haven't  
11 been able to now because of some other entity.

12 DELEGATE MARSHALL: If you look at the last  
13 page of your handout, you currently have 10 employees and  
14 you're saying by April of next year that if you don't have 23  
15 employees or staff, you'll pay back the money?

16 MR. HARRIS: Yes.

17 SENATOR PUCKETT: Mr. Chairman, the  
18 request here is not about money, it's about an extension of  
19 time to do what they've been wanting to do for the last four  
20 years and we think they're in a position to do that and we  
21 think the extension won't cost us anymore money than if you  
22 pulled the plug today. I know its an exception and I usually  
23 don't vote for exceptions but I represent the Town of Saltville  
24 and I'm going to vote.

25 DELEGATE MARSHALL: I'd move that we give

1 them an extension for one year.

2 DELEGATE KILGORE: Are you saying we give  
3 them an extension on this performance agreement?

4 SENATOR PUCKETT: Yes, based on the  
5 agreement.

6 MR. HARRIS: So what we are, you would like  
7 for us to create 60 jobs and invest \$31.5 million, that will take  
8 us approximately 36 months because the infrastructure of the  
9 building requires large tanks and so forth but we're  
10 volunteering to be evaluated on a yearly basis.

11 DELEGATE KILGORE: At the end of the first  
12 year, if you don't have 23 employees and \$4 million, you'll  
13 have to give up the \$100,000.

14 MR. NOYES: Why wouldn't you repay the  
15 \$100,000 and enter into a new three year performance  
16 agreement?

17 MR. HARRIS: The reason is that we're well  
18 aware of that in order to enter into new agreements with the  
19 Tobacco Commission, this is truly a private sector public  
20 partnership and we're aware of the fact that in order to do  
21 this, we have to begin renegotiating an agreement with the  
22 Town of Saltville and ourselves to enter into an agreement with  
23 the Tobacco Commission. We're under the strong impression  
24 that any of the performance issues that a public entity like the  
25 Town of Saltville with your Commission, will be taken into

1 account as to whether or not money should be awarded to us.  
2 In the case of Saltville, we are not the only ones who have  
3 issues associated with performance agreements that have not  
4 been delivered.

5 MR. NOYES: This Committee could say their  
6 going to make an exception on that basis and get our money  
7 back and start all over again.

8 DELEGATE KILGORE: You know, if you don't  
9 live up to this, the staff can pull the plug.

10 MR. HARRIS: We are tired of negotiating and if  
11 we can buy the land, we're set to do exactly that.

12 SENATOR HAWKINS: It's my understanding  
13 you all invested \$5 million in property that you don't have a  
14 right of way to?

15 MR. HARRIS: That's correct, \$4 million of that  
16 is in technology development and \$1 million of that is in  
17 infrastructure. The infrastructure includes large tanks inside  
18 of a rented warehouse that can be moved. These are life  
19 support for the fish and these are very big structures and we  
20 really don't want to move it under any circumstances. The  
21 next stage of our development is very large concrete tanks,  
22 those are not movable.

23 DELEGATE KILGORE: We have a motion and  
24 a second, anymore discussion? All those in favor of this new  
25 performance agreement as outlined on this paper and this

1 motion say aye. (Ayes). Opposed. (No response). Let's go to  
2 the next issue.

3 MR. STEPHENSON: Members of the  
4 Committee a few moments ago you gave the staff some policy  
5 direction that permitted us to not restrict the use of money  
6 when there was a clear contract that was enforceable with due  
7 diligence. Money could pass from the Commission into private  
8 hands such as Virginia Cobia without any restriction of what  
9 to do with the money as long as we get a promise back that we  
10 can enforce. I want to take you now from that specific case,  
11 TROF transactions to the broader arena of all of the other  
12 grants that you made where your monies possibly find their  
13 way into the coffers of private entities. Thus far in the life of  
14 the Commission, we have been forbidden from that as I  
15 understand from counsel for constitutional reasons. Our staff  
16 is very careful to screen through these things and not approve  
17 grants where money appears to go to private entities and to  
18 look at invoices and other documents to guarantee that it does  
19 not. I want to revisit this issue with the committee to make  
20 sure that you all are clear and together on whether or not  
21 you're willing to let money pass into the hands of private  
22 entities under our grant program. I think this is appropriate  
23 because this question often comes to us and in particular,  
24 there are matters tomorrow morning where this question will  
25 be central to what your subcommittee's choose to do.

1                   SENATOR HAWKINS: Mr. Chairman, this is a  
2 subject we've talked about for a long time. Unless there's a  
3 real proven public benefit, I think we need to have some sort of  
4 guidance to make sure that we're not enhancing the bottom  
5 line of the individuals. For example, what comes to mind is  
6 the Martinsville Speedway and that's a private entity but also  
7 there's a, we're competing against a lot of people that want  
8 races. It's a proven fact that unless we invest certain sums of  
9 money, we could lose something like \$70 million per race and  
10 that's the sort of public benefit that I think we need to make  
11 sure that we can be available to help the general population  
12 before we start handing that money out to private individuals.  
13 What I would suggest Mr. Chairman is that we allow staff to go  
14 through the guidelines of dealing with this because there's a  
15 much broader subject than we can address in this meeting.

16                   DELEGATE KILGORE: Do we have to have an  
17 answer for you in the morning?

18                   MR. STEPHENSON: There will be a matter on  
19 the table before the subcommittee tomorrow for which this  
20 policy will be helpful to them in making their decision.

21                   DELEGATE KILGORE: Did you have a  
22 suggestion?

23                   MR. STEPHENSON: I think I'd like to hear  
24 briefly from counsel as to what the constitutional limitations  
25 are and I think that will help you arrive at what you must do.

1                   MR. FERGUSON: We have talked about this in  
2 various context any number of times over the years, the  
3 subcommittee and full Commission. The fundamental notion  
4 constitutionally is that public funds which Commission funds  
5 are, may not be expended for private benefit but there's a very  
6 large exception of cases that, over the years, which say that  
7 unless there is an articulable and definable and identified  
8 public purpose that's being served in addition to what's  
9 involved in the budget and those of you involved with the  
10 budget process in the general assembly we see that every year.  
11 It's also true that public benefit is largely in the eyes of the  
12 beholder. What the courts tell us with some clarity is that  
13 they view the beholder as being the legislative branch of the  
14 government and they will rarely interfere absent some clear  
15 misstep in that regard because they believe the policy and it's  
16 a judgment call, the legislature is empowered properly. In this  
17 case that legislative discretion has been delegated to the  
18 Commission and this particular function and operating in the  
19 legislative capacity. Having said that then, I do believe there  
20 are scenarios that you can envision where the line is crossed  
21 that public funds or the benefit to the public is so remote if  
22 not non-existent that to benefit a private entity with public  
23 funds is constitutionally prohibited. It's something you have  
24 to look at on a case by case basis. One of the reasons you  
25 have performance requirements in TROF grants is to articulate

1 in a metric way what those public benefits are like job  
2 creation, investment in communities, capital infrastructure  
3 that benefit the public generally, curbs on the street or  
4 whatever. I cannot tell you that there's a bright line golden  
5 rule that you can apply to any factual situation because  
6 there's input and output. What I can tell you is that it is  
7 something that you have to consider in all grant awards. It is  
8 something that I would try to do. I always say that when that  
9 question is in the background on a grant that the Commission  
10 should make an expressed finding on the record as to what  
11 the public purpose is through it's job creation or building  
12 infrastructure that's going to benefit the community and that's  
13 fairly obvious and sometimes less so. Those are the  
14 parameters I can give you as a general matter that's on a  
15 sliding scale also. The more private entities that are receiving  
16 funds, the greater the requirement is that there be a public  
17 benefit. If it's a wholly private entity, that's one entity but if  
18 it's a public entity like a locality for example, it's almost  
19 assumed that anything the locality does has some public  
20 benefit. Non-profits are somewhere in between that.  
21 Obviously the profit motive is what the private entity is seeking  
22 and what the public benefit would be seeking. It's not up to  
23 the public business to fund private enterprise.

24 DELEGATE KILGORE: What's your  
25 suggestion?

1 MR. FERGUSON: My suggestion is that we  
2 can reduce to some guidelines these principals but it's still  
3 going to require a case by case analysis and it's going to  
4 require that I give you advice on a real question and then you  
5 determine whether or not you wish to accept that advice. If I  
6 say it's a difficult payment then it has to be delivered in and  
7 determined articulation by the Commission as to what public  
8 benefit they find. Can I tell you how any court's going to rule  
9 on any particular case ahead of time, no, there's not a lot of  
10 cases about this actually. In recent years there's very few.  
11 There's old cases that go back to the 1901 constitution.

12 MR. NOYES: Based on our earlier  
13 conversation and your discussion just now, it seems to me  
14 that where the benefit accrues to that private sector operation  
15 that the vehicle that we have that allows that within the  
16 Commission structure is the TROF Program. Within our  
17 economic development program and within our Agribusiness  
18 Program that becomes a matter of where we have to make that  
19 evaluation as to whether or not there is a compelling public  
20 purpose that is served. Whether or not the funds pass  
21 through an eligible applicant, you have to look at the ultimate  
22 use of the funds.

23 MR. FERGUSON: The mere fact alone that  
24 they may reside for some period of time in the control of the  
25 private entity is not dispositive in and of itself.

1                   SENATOR RUFF: Mr. Chairman, having said  
2 that, how does the Martinsville Speedway fit into that picture?

3                   MR. FERGUSON: The Committee in making  
4 the recommendation and that's a good example because that's  
5 not one that and because it's a wholly private entity that's  
6 receiving those funds, I think the Commission made a  
7 determined and deliberate articulation that those funds, even  
8 though they benefit the private entity and certainly greatly in  
9 that case, there was a much larger and much more profound  
10 economic benefit for the community at large and the public.

11                  MR. NOYES: That was done as a TROF  
12 transaction with the stipulation that there be a performance  
13 agreement which is not what we did with our Economic  
14 Development Committee or our Agribusiness Committee  
15 ordinarily.

16                  SENATOR RUFF: We have identified it helps  
17 the economy or the entire region and that's the reason we  
18 went forward. Tomorrow morning we'll hear a proposal that  
19 one industry or one business directly, it'll affect timberland  
20 owners, loggers, trucking companies so would that fit in that  
21 category?

22                  MR. FERGUSON: Senator Ruff, my review of  
23 that grant application, I don't think that gets there. The TROF  
24 award with some performance.

25                  SENATOR HAWKINS: If indeed the subject

1 we're talking about and I really don't know the numbers, but  
2 there is other competition but if it's providing an economic  
3 advantage to one individual or someone else participating in  
4 the private arena against that competition.

5 MR. FERGUSON: That's something that the  
6 courts in weighing all of this or if somebody challenged this  
7 type of grant, that's one thing the courts would look at.

8 SENATOR HAWKINS: As opposed to the  
9 Martinsville Speedway where there's only one private entity  
10 participating in that. Where you have other industries that  
11 are doing other things and we single out one and give benefit  
12 to, that puts it at an advantage over others who are competing  
13 in the same market. What I'd like to do Mr. Chairman is make  
14 a suggestion that prior to and get some regulations that can be  
15 formulated by our staff that anyone that brings before us a  
16 recommendation, it has to be footnoted it is a private entity  
17 and be able to justify before the full Commission in some sort  
18 of argument as to what the public's benefit is. If there is such.  
19 In the meantime, I think we need some sort of guidelines,  
20 otherwise we'll find ourselves on very thin ice.

21 DELEGATE KILGORE: All right, thank you.  
22 That's what we'll do. Let's hear from VCU.

23 MR. EMERSON: Mr. Chairman, I'm George  
24 Emerson and I'll be very brief.

25 DELEGATE KILGORE: Brevity will be

1 appreciated.

2 MR. EMERSON: We come to you today to ask  
3 for a grant for the Massey Cancer Center and cancer research.  
4 I think it's important to understand that 500,000 Americans  
5 will die this year from cancer, 10,000 in Virginia, another  
6 2,000 in your county will die, 5,000 will be diagnosed with the  
7 disease in rural counties, there's 330,000 survivors. This  
8 disease is affecting all Virginian's and especially within  
9 Southwest Virginia. The question you have to ask yourself is  
10 why do we spend this money for cancer research and why do  
11 we pick Massey. I think a good example of this is just the  
12 research area Dr. Ginder is in. If you had leukemia 25 years  
13 ago it would be a death sentence, you had 3 to 6 months to  
14 live. Today there's 30 to 50 percent cure and the survival rate  
15 last for years. Melanoma 10 years ago the survival rate was  
16 three years, today it's seven years. When you look at radiation  
17 treatment of cancer patients and now they're developing  
18 procedures that when you have this disease, treat it and you  
19 can survive. The money that you spend today is the money  
20 that will go to cure our kids and our families in the future.  
21 The people that paid the money 10 years ago for cancer  
22 research make it so that a lot of our family and friends are  
23 alive today because of that. When you think about how the  
24 money is going to be spent, you know, if one in two men and  
25 one in three women has cancer and the real answer is not

1 where the money is going to be spent but where the cure for  
2 those diseases is going to take place and if the cure of that  
3 disease is going to be for your constituents in Southwest  
4 Virginia. I know it's late but I am a cancer survivor. My  
5 attorney was a man by the name of Oliver Rudy who died two  
6 years ago from this disease and every time you went before the  
7 Board of Supervisors in our area, he would always quote  
8 scripture. I thought tonight I would tell you this. In the Book  
9 of Mark there's one passage where a group of friends and he  
10 said by the faith of your friends, you're healed. When you look  
11 at where we are today, that's what we're talking about. We're  
12 talking about the dollars we spend today that are going to heal  
13 your family and friends tomorrow. If you're looking for where  
14 \$10 million is the best place to spend it, I can't think of  
15 anywhere other than find a cure your family and my family  
16 and your friends and my friends. Thank you. With that I'll  
17 turn it over to Dr. Ginder.

18 DR. GINDER: Thank you. I know it's –

19 DELEGATE KILGORE: I know we heard a lot  
20 of this last time and we know a lot of this.

21 DR. GINDER: Thank you very much sir for  
22 allowing us back in to make our case and I wanted to make  
23 some clarifications from that previous meeting. I'll try directly  
24 to address those. Our request for this \$10 million is the  
25 matching part of that. I'm saying that we had clarified I

1 believe and provided you with information about that and  
2 documentation. That there be a \$10 million from the  
3 Commission there would be a match from Massey to be  
4 matched against the \$10 million. The request itself of that  
5 about \$2.4 million would be spent exclusively in Southwest  
6 Southside Tobacco County Footprints. That documentation is  
7 also presented. About \$17.6 million would support the basic  
8 research and infrastructure and we believe that's essential to  
9 be able to deliver the cutting edge excellent care the patients  
10 in Southside and Southwest Counties and backing the  
11 research. Make no mistake as George said, that's the kind of  
12 cure you want for your family. We'd be able to provide that in  
13 many cases here in the footprint. There's about 4,700 new  
14 cases. I'd like to frame that in terms of human beings, the  
15 humans that will benefit from this. As George said, about  
16 4,700 people in Southside and Southwest will be affected with  
17 newly diagnosed cancer this year and next year again. These  
18 are high rates and as you know, and one of your members  
19 actually commented last time the highest rates of cancer in  
20 this area are in Virginia and that's the need for cutting edge  
21 care and in most cases, it's possible to deliver to it and it's  
22 possible and we want to be able to deliver it in your  
23 community. The other major impact and again framing the  
24 impact issue, can cancer be prevented and controlled and  
25 that's not to be underestimated. There are hundreds of

1 thousands of people that are at risk of cancer in this region.  
2 You heard the statistics one out of two men will have it and  
3 one out of three women and that means literally hundreds of  
4 thousands of people will be affected every year from now on  
5 until we get better control and that's the impact we'd like you  
6 to focus on in that number. At the end of this two years work,  
7 we hope to be able to support and engage the kind of, well we  
8 plan to be able to support and engage in cancer care and  
9 prevention in Southside and Southwest Virginia and  
10 throughout the State of Virginia. This funding will allow us to  
11 lay the ground work and leverage funds for that. I want to give  
12 you one example. We have one project with prevention and  
13 control and we want to do it in Southside and Southwest  
14 communities. The potential, if successful, will average about  
15 \$2 to \$5 million of federal funding. That's about a \$200,000  
16 project. We heard earlier about leveraging. The other point I  
17 wanted to get at and be very specific about spending and  
18 equipment. \$2.39 million of the \$2.5 on Southside but that  
19 amounts to 12 full time and 17 hires; 12 full time would all be  
20 residents of Southside and Southwest communities. We  
21 would have to hire all new physicians and these would be  
22 largely new jobs in the community. Some of this may be new  
23 work by people in the counties and areas in clinics that are  
24 not fully employed. Contract services will include support for  
25 libraries and outreach programs and for telemedicine

1 installation all those will be throughout Southside and  
2 Southwest. There'll be purchases for equipment and supplies.  
3 This work would be carried out in the counties by the clinics.  
4 In some cases we've initiated discussions to enable us to move  
5 forward.

6 In summary, I hope you will look favorable on  
7 our proposal and we're talking about human lives and  
8 suffering. I hope I've answered the three major questions you  
9 had last time.

10 DELEGATE KILGORE: Thank you for coming  
11 back and reworking the papers and speaking with staff and  
12 answering questions of the members of the committee.

13 MR. OWENS: You're saying that of the \$10  
14 million you're asking for, \$2.4 million will be spent in the  
15 Tobacco Commission footprint?

16 DR. GINDER: There will be \$2.4 million spent  
17 exclusively in the Tobacco footprint.

18 SENATOR WAMPLER: Just to clarify, that's  
19 \$1.2 million of our dollars and \$1.2 of Massey's raised funds?

20 MR. OWENS: That means on a \$20 million  
21 project \$2.3 or \$2.4 million.

22 SENATOR WAMPLER: If you give me some  
23 latitude so you can understand what I'm trying to say here. I  
24 certainly support the research and efforts of what Massey  
25 Cancer Center is trying to do and all of your good work. I

1 think having reflected over 10 days or two weeks or whatever it  
2 was or the time was when they presented this information to  
3 us before, I have a better understanding of the scope of what  
4 they proposed to do inside the footprint. As I understand the  
5 staff, that's \$2.391 million. Massey asked us for a two year  
6 grant which I think is problematic for us to commit to. I  
7 would make a motion that, I'd make a motion Mr. Chairman  
8 along the lines that we authorize a grant in the amount up to  
9 \$2.391 million in the FY10 budget with 100 percent of any  
10 portion of the grant amount up to \$2.391 million as a dollar  
11 for dollar match being spent exclusively in Southside and  
12 Southwest. I would add that could be spent over a two year  
13 period consistent with their application. That's my motion.

14 DELEGATE JOHNSON: Second.

15 DR. GINDER: I think I understand the basis  
16 for Senator Wampler's motion. I would just strongly if I can do  
17 so, emphasize that the successful application of these funds  
18 and the mission of this proposal is we need infrastructure and  
19 research to be able to deliver prevention and control to those  
20 people in the counties and that \$2.391 million in order to be  
21 able to enable them to accomplish a mission that they want to  
22 accomplish in saving lives. I just want you to know I  
23 understand your motion and that could compromise our  
24 ability severely to be able to deliver what we want to deliver.

25 MR. NOYES: What you're saying is that you

1 require \$10 million from us or you're not able to accomplish  
2 the objectives in serving the citizens of Southside and  
3 Southwest Virginia?

4 DR. GINDER: I believe that is the case  
5 because of the reasons we talked about. I'm really talking  
6 about the issue really that will provide what drives the delivery  
7 of that prevention and control, that cutting edge care.

8 MR. NOYES: But it's statewide, that serves the  
9 entire state, not just the Tobacco Commission.

10 DR. GINDER: Yes.

11 SENATOR WAMPLER: Mr. Chairman, I can  
12 only respond and I'm only speaking for myself but I think I  
13 share the sense of probably the entire Commission. We really  
14 appreciate the good work from the Massey Cancer Center to  
15 us. If the Massey Cancer Center can find a way to spend more  
16 dollars within the footprint, I would be one of the first to  
17 recommend increasing that grant amount at a future date. In  
18 speaking to the motion Mr. Chairman, I have to say that even  
19 though \$2.39 is not what Massey actually wanted, it's still a  
20 pretty good gift. It certainly helps with fundraising and I hope  
21 you can go out and leverage up other dollars. I also designed  
22 the motion to give some flexibility if they had to scale back and  
23 if they fell short of their \$10 million fundraising and I  
24 recognize that and trying to give some room for them to maybe  
25 -

1 DR. GINDER: - You won't have to worry about  
2 that Senator, that \$10 million is there, it's in a liquid asset.

3 SENATOR WAMPLER: I don't know how to say  
4 this politely and respectfully and I appreciate the work and I  
5 think you're doing a pretty good job.

6 SENATOR HAWKINS: I think the reality of  
7 what we're talking about, this could be described as an  
8 ongoing partnership and this is the first part of an investment  
9 that can be enhanced as time goes on. You have to take a  
10 step down that road before you get to the end of your journey  
11 and this establishes that partnership that I think all of us  
12 want and also answers the question of our commitment. So  
13 it's an ongoing thing and this is not the end of the discussion  
14 but only a continuation of that investment that needs to be  
15 made.

16 DR. GINDER: Just so I understand the  
17 proposal, it's for \$2.4 million for one year allocation, is that it?

18 MR. NOYES: From the fiscal 2010 budget to  
19 be used, this \$2.4 million from the Commission to be used  
20 within the Tobacco Commission footprint within a two year  
21 period of time.

22 SENATOR HAWKINS: Mr. Chairman, they may  
23 find themselves so successful that he'll invest another \$10  
24 million in Southside and Southwest and ask us to help match  
25 that and we'd be willing to listen to that discussion.

1 DR. GINDER: Is there a potential for us to do  
2 some rebudgeting on that decision because –

3 MR. NOYES: Mr. Chairman, members of the  
4 Committee, the staff would need even though we could act as  
5 a reserve panel today to approve this amount, I think we need  
6 to see a new application to see precisely how this \$2.4 million  
7 is going to be used. We know in general terms but if what  
8 you're asking is some part of this \$2.4 million available for use  
9 in Richmond?

10 DR. GINDER: I'm asking for flexibility.

11 MR. NOYES: We would need to see or I would  
12 hope the Committee would support that, we have to see a new  
13 application and be satisfied that the use of the funds are  
14 consistent with what we heard before. Right now we got a \$20  
15 million budget and what we're looking to see is the \$2.4  
16 million budget for what you're going to do, all \$2.4 million  
17 from us.

18 DELEGATE KILGORE: Thinking about what  
19 the Chairman Emeritus said, what Senator Hawkins said  
20 there, this is the sort of, this is a good start.

21 SENATOR HAWKINS: It's a question of  
22 liquidity, our monies can flow into the streams where they're  
23 needed and they're not necessarily there to stop that flow if it  
24 can be proven that it's beneficial.

25 DELEGATE KILGORE: We have a motion and

1 we have a second, there's a motion and a second on this  
2 particular issue. All those in favor say aye (ayes) opposed no.  
3 (No response). Let me call the TROF Panel vote real fast.

4 MR. NOYES: The \$2.4 million all from the  
5 Commission to be used from FY10 from the reserve account to  
6 be used within a two year period all within Southside and  
7 Southwestern Virginia.

8 MR. OWENS: I thought we were going to wait  
9 until we got a new application.

10 MR. NOYES: It won't be disbursed until we're  
11 satisfied.

12 DELEGATE KILGORE: Mr. Owens?

13 MR. OWENS: Aye.

14 DELEGATE KILGORE: Aye.

15 SENATOR HAWKINS: Aye.

16 DELEGATE KILGORE: Aye. That takes care of  
17 the TROF Panel. Now we're at the point for public comment.

18 SENATOR RUFF: Mr. Chairman, I want to feel  
19 comfortable in what we did on the Uranium Study, when you  
20 say staff.

21 DELEGATE KILGORE: There's no motion for  
22 the Uranium Study tomorrow.

23 SENATOR RUFF: Exactly what are we doing?

24 MR. NOYES: The Executive Director is  
25 authorized to use from the general account, up to \$200,000 to

1 support the contract by the Virginia Coal and Energy  
2 Commission for a soci-economic study of the impact of  
3 uranium mining in Southern Virginia, it has nothing to do  
4 with us. Further, I was charged to encourage the coal and  
5 energy commission to work cooperatively with other entities  
6 that are engaged in work relating to uranium mining but  
7 beyond that, I can't compel anything.

8 MR. STEPHENSON: Mr. Chairman, I think  
9 that's been approved by the Executive Committee so the  
10 Commission has not authorized that expenditure so it should  
11 go to the full Commission tomorrow, I think.

12 MR. NOYES: We had spoke about the general  
13 account and my limit was \$50,000 which is in the Bylaws and  
14 it says \$50,000 and the Executive Committee determined I  
15 could have that authority and exceed the \$50,000 up to  
16 \$200,000.

17 MR. FERGUSON: That's set in the Bylaws.

18 DELEGATE KILGORE: Senator Wampler can  
19 make that motion tomorrow.

20 SENATOR WAMPLER: I'll make that motion.

21 DELEGATE KILGORE: All right, public  
22 comment.

23 MS. WHITEHEAD: My name is Katie  
24 Whitehead and I live outside of Chatham, Virginia and I'd like  
25 to comment on the request for funding for the Uranium Study.

1 All Commission members and in particular those representing  
2 Southside should have an opportunity to understand,  
3 comment and vote on this request. I welcome the Virginia  
4 Tobacco Commission's interest to fund a Socio-Economic  
5 Study of the implications of allowing uranium mining in  
6 Virginia. It is appropriate that the State contribute to a study.  
7 Please ensure that there are adequate funds for a worthwhile  
8 study. A realistic study cannot be an approved scope of study  
9 and proposals from qualified researchers we have near. There  
10 is no rush for the Tobacco Commission to fund the whole  
11 study this week. That is the appearance as stated in the  
12 minutes up to \$200,000. We think we can get it down to  
13 \$100,000. The uranium mining subcommittee plans to hold  
14 public hearings soon to illicit public comments, presumably on  
15 the draft last year as well as on who might be conducting the  
16 research. The National Economy Plan for the technical study  
17 calls for a quote "extensive public outreach that will include  
18 public meetings in Virginia to disseminate the reports findings  
19 well into 2012." The report states it circulates publicly  
20 December 1, 2011. There is written in up to an additional 5  
21 months. You have the option of considering a reality based  
22 budget at a future meeting.

23 DELEGATE KILGORE: Thank you.

24 MS. WHITEHEAD: I have written a letter.

25 DELEGATE KILGORE: I believe we have it by

1 email.

2 MS. WHITEHEAD: I have a few copies here.

3 DELEGATE KILGORE: Thank you. Any other  
4 public comments. Our next meeting will be in Marion,  
5 Virginia on July 28<sup>th</sup>. We're adjourned.

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7 PROCEEDINGS CONCLUDED

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CERTIFICATE OF THE COURT REPORTER

I, Medford W. Howard, Registered Professional Reporter and Notary Public for the State of Virginia at Large, do hereby certify that I was the court reporter who took down and transcribed the proceedings of the VIRGINIA TOBACCO INDEMNIFICATION AND COMMUNITY REVITALIZATION COMMISSION, Executive Committee Meeting when held on Wednesday, April 28, 2010, at 5:00 o'clock p.m. at the Hotel Roanoke, in Roanoke, Virginia.

I further certify this is a true and accurate transcript to the best of my ability to hear and understand the proceedings.

Given under my hand this 20<sup>th</sup> day of May, 2010.



Medford W. Howard  
Registered Professional Reporter  
Notary Public for the State of Virginia at Large  
MY COMMISSION EXPIRES: October 31, 2010  
CERTIFICATE NUMBER: 224566